IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE ELEVENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 18494 of 2004

Between:

M/S. Indian Metals & Ferro Alloys Ltd. A Company Incorporated Under the Provision of Companies P.O.Rasulgarh. Bhubaneswar-751010, Orissa State, And Factory at Therubali, Rayagada District, Orissa state Represented by its Asst. Officer (Purchase) Mr,Gautam Sinha.

..... PETITIONER

AND

1 The Commissioner of Prohibition and Excise Andhra Pradesh, Hyderabad.
2 The Prohibition and Excise Superintendent Visakhapatnam, Visakhapatnam District.
3 IMC Limited, 10-1-30, Waltair Uplands, Visakhapatnam-530 003,

Visakhapatnam District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction, preferably one in the nature of Writ of Mandamus, declaring that the Respondents-1 and 2 have no jurisdiction to cause any restriction on the transport of Molasses by the Petitioner from Andhra Pradesh state to any other place in the other states in India as such restriction is illegal and without jurisdiction apart from being violative of Art. 19(1) (g) of the constitution of India.

Counsel for the Petitioner: MR.E.MARUTHI RAJA

Counsel for the Respondent Nos.1 and 2: GP FOR PROHIBITION & EXCISE

Counsel for the Respondent No.3: ----

The Court at the admission stage made the following:

ORDER:

Heard the learned counsel for the petitioner and the learned Government Pleader for Prohibition and Excise appearing for the respondent Nos.1 and 2.

The petitioner seeks a writ of Mandamus declaring that the respondents have no jurisdiction to restrict the transport of Molasses by the petitioner from the State of Andhra Pradesh to any other place within the State or to other States.

It is represented by the learned counsel for the petitioner as well as the learned Government Pleader for Prohibition and Excise appearing for the respondent Nos.1 and 2 that the issue involved in this writ petition is squarely covered by the decision of this Court in M/S GAURI INDUSTRIES (MANUFACTURES OF RECTIFIED SPIRIT) v COMMISSIONER OF PROHIBITION AND EXCISE, ANDHRA PRADESH, in W.P.No.8136 of 2004 wherein it is held as under:

> "It is a fact that the possession as well as transportation of Molasses was being controlled by the Molasses Control Order, issued by the Central Government. But, however, the said Control Order was rescinded by the Central Government as early as in 1993. Thereafter, there were no provisions either in the A.P. Excise Act or under any Rules framed by the State Government and this fact was clarified by a Division Bench of this Court in Writ Appeal No.2209 of 1998, dated 08.05.2001.
>
> The restriction of transportation of Molasses is only if it is intended for utilization of illicit distillation and on such occasions only the respondent authority can take action. But, however, if any

individual is transporting the Molasses under a valid purchase bills to the destination of the purchaser, the respondents authority have no right to interfere with such transportation.

Therefore, the writ petition is disposed of clarifying the position that the respondents have no right to insist the petitioner for any permission or for obtaining NOC for transport of Molasses from the Sugar Factories to any other specified destination for being used by the purchaser."

Accordingly, the writ petition is disposed of in terms of directions in the above decision. No costs.

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11.10.2004

Note: Furnish CC in two days

(b/o)

VGB

To

1 The Commissioner of Prohibition and Excise Andhra Pradesh, Hyderabad.
2 The Prohibition and Excise Superintendent Visakhapatnam, Visakhapatnam District.

3 2CCs to the Government Pleader for Prohibition and Excise, High

Court Buildings, Hyderabad (OUT)

4 2CD copies